

Application No. 10/539,028
Amdt. Dated: September 1, 2010
Reply to Office Action Dated: June 8, 2010

REMARKS/ARGUMENTS

The Examiner is thanked for the Office Action mailed June 8, 2010. The status of the application is as follows:

- Claims 21-40 are pending, and claims 21, 22 and 24 have been amended herein;
- Claim 21 is objected to under 35 U.S.C. 132(a);
- Claim 22 is objected to for informalities;
- Claim 21 is rejected under 35 U.S.C. 112, first paragraph;
- Claim 24 is rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter;
- Claims 21, 27-30, 35 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Eriksen et al. (US 6,374,667);
- Claims 22, 23, 25, 26, 31, 34, 36, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksen et al. in view of Reining et al. (US 6,359,449);
- Claims 24 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksen et al. in view of Blackwell (US 6,186,941); and
- Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksen et al. in view of Kasai (US 5,760,688).

The objections and rejections are discussed below.

The Objection to the Claim 21 under 35 U.S.C. 132(a)

Claim 21 stands objected to under 35 U.S.C. 132(a) because it allegedly introduces new matter. In particular, the Office asserts that the claim limitation “the resonant circuit does not surround a perimeter of the human subject” is not supported in the original disclosure. Applicant respectfully traverses this assertion. New matter is subject matter that is not included in the specification or drawings of the application as filed. (See MPEP 608.04(b)). Figs. 3 and 4, and the disclosure in connection therewith, of the originally filed application clearly illustrate embodiments in which the resonant circuit does not surround a perimeter of the human subject. If the Office disagrees, applicant requests that the Office clearly explain their position with respect to at least these two Figures. In view of the foregoing, this objection is moot and should be withdrawn.

Application No. 10/539,028
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The Objection to the Claim 22 for Informalities

Claim 22 is objected to for informalities – a typographical error. This objection should be withdrawn as claim 22 has been amended herein to cure the typographical error.

The Rejection of Claim 21 under 35 U.S.C. 112, First Paragraph

Claims 21 stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. In particular, the Office asserts that the claim limitation “the resonant circuit does not surround a perimeter of the human subject” was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s) at the time the application was filed had possession of the claimed invention. Applicant respectfully disagrees. Figs. 3 and 4, and the disclosure in connection therewith, of the originally filed application clearly illustrate embodiments in which the resonant circuit does not surround a perimeter of the human subject. If the Office disagrees, applicant requests that the Office clearly explain their position with respect to at least these Figures. In view of the above, this objection is moot and should be withdrawn.

The Rejection of Claim 24 under 35 U.S.C. 101

Claims 24 stands rejected under 35 U.S.C. 101. In particular, the Office asserts that the claim limitation “affixed to the human subject” impermissively positively recites human body and suggests changing this limitation to “configured to be affixed to the human subject.” Applicant disagrees. However, in order to facilitate expeditious prosecution, applicant has amended claim 24 as suggested by the Office. Therefore, this rejection should be withdrawn.

The Rejection of Claims 21, 27-30, 35 and 40 under 35 U.S.C. 102(e)

Claims 21, 27-30, 35 and 40 stand rejected under 35 U.S.C. 102(e) as being anticipated by Eriksen, et al. This rejection should be withdrawn because Eriksen et al. does not teach each and every element as set forth in the subject claims and, therefore, does not anticipate claims 21, 27-30, 35, and 40.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a

Application No. 10/539,028
Amdt. Dated: September 1, 2010
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single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). MPEP §2131.

Independent **claim 21** has been amended and now recites the resonant circuit does not surround any perimeter of the human subject. For this rejection, the Office relies on Eriksen et al., noting that resonant circuit in Fig. 6 of Eriksen et al. can be broadly interpreted as not surrounding the feet and head of the human. However, Fig. 6 clearly shows the resonant circuit surrounding a torso region of the human. Therefore, Eriksen et al. teaches that the resonant circuit surrounds at least one perimeter of the human. As such, Eriksen et al. does not teach or suggest the resonant circuit does not surround any perimeter of the human subject, and this rejection should be withdrawn.

Claims 27-30 depend from claim 21 and are allowable at least by virtue of their dependencies. Accordingly, this rejection should be withdrawn.

Independent **claim 35** recites, *inter alia*, that the resonant circuit is located only on a front side of the subject. The Office states that Eriksen et al. teaches this claim in connection with Fig. 6, noting that resonant circuit in Fig. 6 of Eriksen et al. can be broadly interpreted as not surrounding the feet and head of the human. Applicant does not understand how disclosing a resonant circuit that can be broadly interpreted as not surrounding the feet and head of the human teaches or suggest a resonant circuit that is located only on a front side of the subject. Applicant requests withdrawal of this rejection and allowance of claim 35 or a non-final Office Action in which the Office clearly explains how disclosing a resonant circuit that allegedly does not surround the feet and head of the human teaches or suggest a resonant circuit that is located only on a front side of the subject. Furthermore, Fig. 6 shows an embodiment in which a coil 107 is wrapped around and surrounds a torso region of a patient. As such, the coil is also at least on the back and sides of the human. Thus, Fig. 6 of Eriksen et al. does not teach or suggest that the resonant circuit is located only on a front side of the subject claim, and this rejection should be withdrawn.

Independent **claim 40** recites, *inter alia*, that the resonant circuit is located only on a chest of the human and proximate to the heart. The Office asserts that Eriksen et al. teaches this claim limitation in that Eriksen et al. discloses in column 6, lines 37-40, monitoring for heart failure. However, this section of Eriksen et al. relates to a magnified view (Fig. 5) of the curve

Application No. 10/539,028

Amdt. Dated: September 1, 2010

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in Fig. 4, which shows a sample recording for a first embodiment, which is described in connection with Figs. 2-8. (See column 4, lines 12-13; column 6, lines 18-19 and 29-31) Figs. 6-8, which show the resonant circuit in relation to a human, only show configurations in which a coil 107 is wrapped around and surrounds a torso region of a patient. As such, the coil is also at least on the stomach, back and sides of the human. Hence, the Eriksen et al. does not teach or suggest that the resonant circuit is located **only on a chest of the human** and proximate to the heart, as required by claim 40. Accordingly, this rejection of claim 40 should be withdrawn.

Other Claims

The claims not addressed above depend from either claim 21 or 35 and are allowable at least by virtue of their dependencies. Therefore, the rejection of these claims should be withdrawn.

Application No. 10/539,028
Amdt. Dated: September 1, 2010
Reply to Office Action Dated: June 8, 2010

Conclusion

In view of the foregoing, it is submitted that the claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,



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